IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 13TH SEPTEMBER 2007 / 22ND BHADRA 1929

Crl.MC.No. 2886 of 2007()

CC.196/2003 of JUDL. MAGISTRATE OF FIRST CLASS-IV, KOZHIKODE

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PETITIONER: ACCUSED

SASIKUMAR K.ALIAS PRADEEP,
S/O. KARUNAKARAKURUP,NADAKAVU,
KOZHIKODE TALUK, KOZHIKODE DISTRICT.

BY ADV. SRI.AVM.SALAHUDIN

RESPONDENTS: COMPLAINANT

THE STATE OF KERALA REPRESENTED BY
THE SUB INSPECTOR OF POLICE,
NADAKAVU POLICE STATION, KOZHIKODE-67301 THROUGH
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 13/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.2886 of 2007

Dated this the 13th day of September 2007

O R D E R

The petitioner faces indictment in a prosecution for the offences punishable under Sections 341 and 324 I.P.C. The petitioner was released on bail; but later consequent to his non-appearance, a warrant of arrest was issued against him. The petitioner finds such warrant of arrest issued by the learned Magistrate chasing him.

2. According to the petitioner, he is absolutely innocent. His absence earlier was not wilful or deliberate. The petitioner is willing to surrender before the learned Magistrate and seek regular bail. But he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. He, therefore, prays that directions under Section 482 Cr.P.C. may be issued to the learned Magistrate to release the petitioner on bail when he appears and applies for bail.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate, the circumstances under which he could not earlier appear before the learned Magistrate. I find absolutely no reason to assume

that the learned Magistrate would not consider the application for bail to be filed by the petitioner on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in Alice George vs. Deputy Superintendent of Police [2003(1)KLT 339].

4. In the result, this Criminal Miscellaneous Case is dismissed but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

5. In the peculiar facts and circumstances of this case, there shall be a further direction that the warrant of arrest issued against the petitioner shall not be executed till 24/09/2007. The petitioner shall, on or before that date, surrender before the learned Magistrate and seek regular bail.

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007